

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

BILL D. VESS

PLAINTIFF

VS.

CIVIL ACTION NO. 1:16cv80-DMB-SAA

MTD CONSUMER GROUP, INC.

DEFENDANT

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual and liquidated damages for violation of the Family and Medical Leave Act and the Age Discrimination in Employment Act (ADEA). Suit is brought to recover actual, compensatory and punitive damages for violation of the Americans with Disabilities Act (ADA). Actual and punitive damages are also sought for violation of Title VII of the Civil Rights Act of 1964, as amended. The following facts support the action:

1.

Plaintiff BILL D. VESS is an adult resident citizen of County Road 6105 #16, Baldwyn, Mississippi 38824.

2.

Defendant MTD CONSUMER GROUP, INC. (hereinafter "Defendant") is an Ohio corporation doing business in the State of Mississippi. This Defendant may be served with process through its registered agent C T Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232. At all relevant times, Defendant was an employer within the meaning of the Family and Medical Leave Act, the ADA, the ADEA, and the Civil Rights Act of 1964, as amended.

3.

This Court has federal question jurisdiction under 28 U.S.C. § 1331 and civil rights jurisdiction under 28 U.S.C. § 1343 and jurisdiction under the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.*, the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.*, the Americans with Disabilities Act, the Americans with Disabilities Amendments Act, 42 U.S.C. § 12101, *et seq.*, and Title VII of the Civil Rights Act of 1964. Plaintiff has a cause of action under 42 U.S.C. § 1981 for race discrimination.

4.

Plaintiff is a sixty (60) year-old white male. Plaintiff was employed by Defendant for fifteen (15) years. Plaintiff suffers from anxiety, which is precipitated and exacerbated by stress. Plaintiff suffered stress at his work due to a combination of workplace harassment by his superior, Walter Rock (white), and also because of intensive sexual harassment by a black employee, Karen Ewing.

5.

Plaintiff repeatedly complained about Karen Ewing's sexual harassment, but no meaningful disciplinary action was ever taken against her.

6.

In mid February 2015, Plaintiff went on medical leave because of the anxiety which he was suffering at work. Plaintiff had become unable to perform his job duties and the result of anxiety from the harassment. Plaintiff was off on medical leave for approximately three (3) months. Defendant approved medical leave under the Family and Medical Leave Act.

7.

Approximately two (2) days after Plaintiff's return to work, Defendant terminated him from his employment.

8.

The reason assigned for Plaintiff's termination was that he, along with two (2) other employees, had engaged in racial harassment by using racially-discriminatory terms. In fact, Plaintiff had not used any racially derogatory terms, although the two (2) other employees had done so.

9.

Defendant fired all three (3) of the employees charged with using racial slurs, but reinstated one of the employees who was young. Plaintiff and another older employee were not reinstated.

10.

Plaintiff has been discriminated against because: (a) he was terminated in retaliation for his taking family and medical leave; (b) he was terminated because of his disability (severe anxiety, resulting in an inability to work for several month); (c) his age, since a much younger employee was discharged but thereafter retained; (d) his race, since retaliation was taken for false the false charge of using racial slurs, but no meaningful disciplinary action was taken against that black employee who sexually harassed him, and (e) sex discrimination since Defendant tolerated sexual harassment against Plaintiff by a female employee but fired him based on false allegations of using racial slurs.

11.

Plaintiff's discharge is in violation of: (a) the Age Discrimination in Employment Act; (b) Civil Rights Act of 1964, as amended, both with respect to its sex discrimination provisions and with respect to its race discrimination provisions; (c) 42 U.S.C. § 1981, since Plaintiff was not allowed

to contract on the same basis as black persons; (d) disability discrimination, since Plaintiff was terminated because of his disability (severe anxiety), which substantially affected his everyday life functions; (d) his race (white); and (e) sex (male), in violation of the Civil Rights Act of 1964, as amended; and (e) in violation of 42 U.S.C. § 1981.

12.

Plaintiff has filed the EEOC charge, attached hereto as Exhibit “A,” and has received the right-to-sue letter, attached hereto as Exhibit “B.”

13.

Plaintiff has suffered lost income, mental anxiety and stress because of his termination. Plaintiff’s wrongful termination was willful, such that liquidated damages are due.

REQUEST FOR RELIEF

Plaintiff requests actual, liquidated and punitive damages in an amount to be determined by a jury, reinstatement and for reasonable attorneys’ fees and costs.

RESPECTFULLY SUBMITTED, this the 11th day of May, 2016.

BILL D. VESS, PLAINTIFF

By: /s/ JIM WAIDE
JIM WAIDE
MS Bar No. 6857

WAIDE & ASSOCIATES, P.A.
332 North Spring Street
Tupelo, MS 38804-3955
Post Office Box 1357
Tupelo, MS 38802-1357
Telephone: (662) 842-7324
Telecopier: (662) 842-8056
Email: waide@waidelaw.com

ATTORNEYS FOR PLAINTIFF